

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTOLIN ANDREW MARKS

Plaintiff,

v.

UNITED STATES OF AMERICA *et al.*,

Defendants

Case No. C06-5696BHS/JKA

ORDER

This Civil Rights/Bivens/ Federal Tort action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion to strike defendant's answer and enter default against defendants (Dkt # 53).

Plaintiff has previously moved for default (Dkt. # 44). While that motion was pending the default was cured by the filing of an answer (Dkt # 45) A Report and Recommendation to deny default was entered (Dkt. # 47). Without waiting for the District Court Judge to enter a ruling on that Report and Recommendation, plaintiff filed this motion (Dkt. # 53).

On December 12, 2007, the District Court Judge assigned to this case adopted the Report and Recommendation and denied plaintiff's motion for default (Dkt # 63). Thus, plaintiff's attempt

ORDER

1 to have default entered in this case has been considered and denied. This motion is also **DENIED**.

2 The Clerk is directed to send a copy of this Order to plaintiff and counsel for defendants and
3 to remove Dkt. # 53 from the courts' calendar.

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5 DATED this 9 day of January, 2008.

6 /S/ J. Kelley Arnold

7 J. Kelley Arnold

8 United States Magistrate Judge
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28 ORDER